



State of Utah

Department of
Natural Resources

Division of
Oil, Gas & Mining

ROBERT L. MORGAN
Executive Director

LOWELL P. BRAXTON
Division Director

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

March 4, 2004

CERTIFIED RETURN RECEIPT
7099 3400 0016 8896 1980

Mr. Keith McKay
State Stone
4640 South 300 West
Murray, Utah 84107

Subject: Notice of Non-Compliance, State Stone, Unpermitted Quarry, M/055/021,
Wayne County, Utah

Dear Mr. McKay:

This letter provides formal notice that mining operations at your stone quarry near Torrey in Wayne County, Utah, are being conducted in violation of the Utah Mined Land Reclamation Act, 40-801 et. seq. (Act) and the Minerals Reclamation Program Rules, sections R647-1 through R647-5.

A site inspection was performed on January 30, 2004, which confirmed that large mining operations have been conducted at this quarry for which the Division of Oil, Gas and Mining has not received a Notice of Intention to Commence Mining Operations, permit fees, or a reclamation bond.

Findings of Non-Compliance

1. State Stone is conducting large mining operations prior to filing a Notice of Intention to Conduct Large Mining Operations. Rule R647-4-101 requires approval by the Division of a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) exceeding five surface acres, before mining operations begin.
2. Rule R647-4-113 requires an operator to post surety with the Division to ensure adequate reclamation is performed, before mining-related disturbances are created. State Stone has not filed a reclamation surety.

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Location of Non-Compliance

Disturbances associated with State Stone's quarry are located in the SW¼ NW¼ of Section 20, Township 29 South, Range 5 East, SLBM, Wayne County, Utah.

Mitigation Requirements

1. **Within 60 days of receipt of this letter, State Stone must post a \$34,450 (\$5000 X 6.89 acres) *transitional* reclamation surety.** This *transitional* surety will remain in place until a Notice of Intention to Commence Large Mining Operations is submitted and approved. The surety amount will be adjusted accordingly upon Division approval of the Notice of Intention to Commence Large Mining Operations.
2. Within 90 days of receipt of this letter, State Stone must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and submit the required \$500 permit fee for a large mine under 50 acres.
3. Until the *transitional* surety is posted, the permit fee has been paid, and a technically adequate Notice of Intention to Commence Large Mining Operations has been filed, State Stone ***must cease all mining operations and removal of material from this site.***

Penalties for Failure to Comply

1. If State Stone fails to resolve this Notice of Non-compliance within the timeframes set forth in this letter, the Division will file a formal Notice of Agency Action. This enforcement action could require the operator to appear at an informal hearing before the Division Director, or at a formal hearing before the Board of Oil, Gas and Mining. Following public notice and formal hearing, the Board may issue an abatement or compliance Order which may require immediate suspension or termination of all mining operations until the plan is approved; immediate reclamation of the site; and/or other lawful requirements as authorized under the Act.
2. The Board may also ask the County prosecutor or State Attorney General to bring suit against the operator to enforce its Orders and to seek assessment of appropriate penalties, not to exceed \$10,000 for each knowing or willful violation of the Act.

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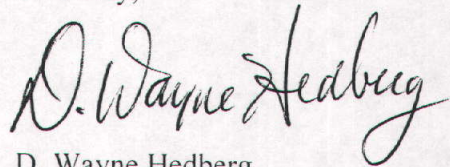
If you wish to contest this Notice of Non-Compliance, you may contact the Division to schedule an informal meeting with the Associate Director of Mining, Mary Ann Wright, and members of the Minerals Program staff. If you choose to appeal this Notice and arrange an informal meeting, please contact Vickie Southwick, Executive Secretary, at (801) 538-5304, within 10 days of your receipt of this notice.

Appeal Provision

You also have the right to appeal the Division's decision on this matter by requesting an *informal* administrative hearing before the Division Director, Lowell Braxton, or by requesting a *formal* hearing before the Board of Oil, Gas and Mining. **A written appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter.** If a hearing is not requested, then the Division's decision will become final. The written appeal must state: 1) your intent to appeal; and, 2) the specific findings or requirements you wish to appeal. An Informal Hearing is conducted under the provisions of the Administrative Rules R647-5-102 – 106 and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

If you have any questions regarding the requirements of this letter, please contact me at (801) 538-5286, or Paul Baker, permit lead, at 538-5261. Thank you for your immediate attention to this matter.

Sincerely,



D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

DWH:PBB:jb
Enclosure: Inspection Report
cc: Buzz Rakow, Hanksville BLM
Mary Ann Wright, Associate Director
O:\M055-Wayne\M0550021-McKay\final\noncomp-03042004.doc

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KEITH MCKAY
STATE STONE
4640 S 300 W
MURRAY UT 84107

JB DOGM M/055/021 3/4/04

2. Article Number

(Transfer from service label) 7099 3400 0016 8896 1980

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Debbie MacKay

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☒ No

3. Service Type

☒

Certified Mail

☐ Express Mail☐

Registered

☐ Return Receipt for Merchandise☐

Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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Joelle Burns
State of Utah
Division of Oil, Gas and Mining
1594 West North Temple Suite 1210
Salt Lake City UT 84114-5801

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DIV. OF OIL, GAS & MINING

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Total Postage & Fees \$

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Recipient's Name (Please Print Clearly) (to be completed by mailer)

KEITH MCKAY - STATE STONE

Street, Apt. No.; or PO Box no.

4640 S 300 W

City, State, ZIP+4

MURRAY UT 84107

7099 3400 0016 8896 1980